(1) A single entity oversees the management of the affiliated systems;
(2) A single entity sends bills to customers and these bills identify a single entity (or trade name) as the service provider, rather than identifying the individual legal entities;
(3) All revenues are posted to a single general ledger;[9]
(4) To the extent that separate revenue and expense accounts exist, they are derived from one consolidated set of books and the consolidated filing must cover all revenues contained in the consolidated books;
(5) Customers have a single point of contact;
(6) The consolidated filer acknowledges that process served on the consolidated filer would represent process served on any or all of the affiliated legal entities;
(7) The consolidated filer agrees to document and resolve all slamming complaints that might be served on either the filing entity or any of the affiliated legal entities;[10]
(8) The consolidated filer obtains a separate FCC Registration Number (FRN) from those assigned to its affiliated legal entities;
(9) The consolidated filer acknowledges that its obligations with regard to universal service, Telecommunications Relay Services, Local Number Portability, the North American Numbering Plan, and regulatory fees will be based on the data provided in consolidated Worksheet filings, that it bears the responsibility to satisfy those obligations, and that all legal entities covered by the filing are jointly and severally liable for such obligations; and
(10) The consolidated filer acknowledges that it: (A) was not insolvent on the date it undertook to make payments on a consolidated basis or on the date of actual payments to universal service, Telecommunications Relay Services, Local Number Portability, the North American Numbering Plan, and regulatory fees, and did not become insolvent as a result of such undertaking or payments; (B) was not left with unreasonably small capital as a result of such undertaking or payments; and (C) was not left unable to pay debts as they matured as a result of such undertaking or payments.[11]

Each year, entities choosing to file on a consolidated basis must file a statement certifying that they meet all of the above conditions. Such certification also must include: (1) a list of the legal names of all legal entities that are covered by the filing; (2) the FCC Form 499 identification numbers of all legal entities that are covered by the filing; (3) the consolidated filer's FRN; and (4) for wireless carriers, a list of all radio licenses (call signs) issued to each legal entity covered by the filing. Consolidated filers should file this certification with the Commission's Data Collection Agent. Furthermore, a contributor choosing to file on a consolidated basis should recognize that any penalties associated with failure to pay or with underpayment of any of its obligations will be assessed on the total revenue reported on the consolidated basis, rather than on a separate legal entity basis.

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[9] The FCC Form 499 Filings for the consolidated filer must reflect all revenues in this general ledger.

[10] A Commercial Mobile Radio Service (CMRS) carrier that is not subject to certain slamming regulations is not required to certify that it will document and resolve all slamming complaints that might be served on either the filing entity or any of its affiliated legal entities that also are not subject to the slamming regulations.

[11] For purposes of this certification, the term "insolvent" means either unable to pay debts when due or having liabilities greater than assets. *See* 11 U.S.C. § 101(32).

C. When and Where to File

Figure 2 provides the filing schedule and relevant filing addresses. If a filing date is a holiday (as defined in Section 1.4(e)(1) of the Commission's rules), Worksheets are due the next business day.

Figure 2: Filing schedule

When to file	What to file	Where to file *
February 1 of each year	Completed FCC Form 499-Q containing revenue information for October 1 through December 31 of the prior calendar year and projections for April 1 through June 30	**Form 499 Data Collection Agent c/o USAC 2000 L Street, N.W. Suite 200 Washington DC, 20036**
April 1 of each year	Completed FCC Form 499-A containing revenue information for January 1 through December 31 of the prior calendar year	Form 499 Data Collection Agent (address above)
May 1 of each year	Completed FCC Form 499-Q containing revenue information for January 1 through March 31 and projections for July 1 through September 30	Form 499 Data Collection Agent (address above)
August 1 of each year	Completed FCC Form 499-Q containing revenue information for April 1 through June 30 and projections for October 1 through December 31	Form 499 Data Collection Agent (address above)
November 1 of each year	Completed FCC Form 499-Q containing revenue information for July 1 through September 30 and projections for January 1 through March 31 of the coming year	Form 499 Data Collection Agent (address above)

* Do not send universal service contributions with this Worksheet or to the above address. The universal service administrator will calculate the amount of contribution due and send a bill to the billing contact person and billing address identified in Line (112) of the FCC Form 499-Q. For information on filing electronically, go to http://forms.universalservice.org. **Annual and quarterly filings should not be sent to the Office of the Secretary or any other FCC address.**

D. Rounding of Numbers and Negative Numbers

All information provided in the Worksheet should be neatly printed in ink or typed. Please provide an original officer signature in ink in Line (122).

Dollar Amounts. Reported revenues in Block 3 that are greater than a thousand dollars may be rounded to the nearest thousand dollars. Regardless of rounding, **all dollar amounts must be reported in whole dollars**. For example, $2,271,881.93 could be reported as $2,271,882 or as $2,272,000, but could not be reported as $2272 thousand, $2,270,000.00 or $2.272 million. Please enter $0 in any line for which the contributor had no revenues for the period being reported.

Negative Numbers. Contributors are directed to provide billed revenues on Lines (115) through (119) without subtracting any expenses, allowances for uncollectibles or settlement payments and without making out-of-period adjustments. The amount of projected uncollectibles (the difference between Line (119) and Line (120)) cannot exceed projected billings. Therefore, do not enter negative numbers on the form.

E. Obligation to File Revisions

Line 127 provides check boxes to show whether the Worksheet is the original filing or a revised filing for the quarter. A contributor must file a revised 499-Q Worksheet if it discovers an error in the data that it reports, *i.e.*, if the filer discovers that it omitted or misclassified a major category of revenue. However, revised filings must be made within 45 calendar days of the original filing date. In general, the historical revenues contained in the quarterly filings will be based on unaudited books from a point in time and the projections will represent the filer's expectations as of a point in time. Contributors need not file revisions to the FCC Form 499-Q as a result of ordinary accounting adjustments such as out-of-period adjustments. Revenue information from the FCC Form 499-A will be used to ensure that contributions for the whole year are based on all subject revenues for the year.

Contributors should not file a revised FCC Form 499-Q Telecommunications Reporting Worksheet to reflect mergers, acquisitions, or sales of operating units. In the event that a contributor that filed an FCC Form 499-Q no longer exists, the successor company to the contributor's assets or operations is responsible for continuing to make payments, if any, for the funding period and must notify the Commission's Data Collection Agent.

F. Record Keeping

Filers shall maintain records and documentation to justify information reported in the Telecommunications Reporting Worksheet, including the methodology used to determine projections and to allocate interstate revenues, for three years. Filers shall provide such records and documentation to the Commission or the Administrator upon request.[12] Entities that acquire carrier operations through acquisition of property, consolidation, merger, etc., must maintain the records of the acquired entity.[13]

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[12] *See* 47 C.F.R. § 54.711. Administrator refers to the Universal Service Administrative Company.

[13] *See* 47 C.F.R. § 42.1.

G. Compliance

Failure to file the Telecommunications Reporting Worksheet or to pay contributions in a timely fashion may subject entities to the enforcement provisions of the Communications Act and any other applicable law.[14] In addition, entities may be billed by the administrators for reasonable costs, including interest and administrative costs that are caused by late, inaccurate, or untruthful filing of the Worksheet or overdue contributions.[15] Inaccurate or untruthful information contained in the Telecommunications Reporting Worksheet may lead to prosecution under the criminal provisions of Title 18 of the United States Code.[16]

III. Specific Instructions

A. Block 1: Contributor Identification Information

Block 1 of the Telecommunications Reporting Worksheet requires identification information.

Line 101 -- enter the "Filer 499 ID" number for the filing entity. This code is assigned by the Commission's Data Collection Agent after a company files its first FCC Form 499-A. Filer 499 IDs for current filers can be found at http://gullfoss2.fcc.gov/cib/form499/499a.cfm or in the FCC report *Telecommunications Provider Locator*, which is available on the Commission's web site at http://www.fcc.gov/wcb/iatd/stats.html. This code should be entered at the top of any cover letter or supporting documentation. New filers are assigned Filer 499 ID numbers after a completed FCC Form 499-A Telecommunications Reporting Worksheet is received by the Data Collection Agent.

Line 102 -- enter the legal name of the filer as it appears on articles of incorporation and other legal documents. Each legal entity must file a separate Worksheet unless affiliated entities are filing on a consolidated basis.[17]

Line 103 -- provide the Internal Revenue Service (IRS) employer identification number (EIN) for the filer. This should be the same EIN that the company uses to file federal excise taxes or income taxes, if the filer offers services subject to those taxes. Consolidated filers should provide the EIN of the holding company. The EIN is also known as the taxpayer identification number (TIN) or for individuals as the social security number (SSN).

Line 104 -- provide the principal name under which the company conducts telecommunications activities. This would typically be the name that appears on customer bills, or the name used when service representatives answer customer inquiries.

Line 105 -- **use this block to provide a common identifier for all affiliated filers**. Typically, this would be the name of the filer's holding company or controlling entity, if any. The common name used by all affiliates need not be a common carrier. All reporting affiliates or commonly controlled

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[14] In addition, pursuant to the Debt Collection Improvement Act of 1996, the Commission shall withhold action on applications or other requests for benefits by delinquent debtors and dismiss those applications or other requests if the delinquent debt is not paid or satisfactory arrangement for payment is not made. *See* 47 C.F.R. § 1.1910; *Amendment of Parts 0 and 1 of the Commission's Rules, Implementation of the Debt Collection Improvement Act of 1996 and Adoption of Rules Governing Applications or Requests for Benefits by Delinquent Debtors*, MD Docket No. 02-339, 19 FCC Rcd 640 (2004).

[15] *See* 47 C.F.R. § 54.713 (universal service); 47 C.F.R. § 64.604(c)(5)(iii)(B) (TRS). *See also* 47 C.F.R. § 52.17(b) (NANPA); 47 C.F.R. § 52.32(c) (LNPA).

[16] *See* 47 C.F.R. § 54.711.

[17] *See* Section II-B, page 6, for information on making consolidated filings.

entities should have the **identical** name appearing on Line 105. Unless otherwise specifically provided, an affiliate is a "person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person." For this purpose, the term 'owns' means to own an equity interest (or the equivalent thereof) of more than 10 percent.."[18]

Line 106 -- provide the FCC Registration Number (FRN). The FRN is a ten digit number that includes a check-digit. The FRN is used to identify an entity within all Commission Licensing/Filing systems and RAMIS (the Commission's Revenue Accounting Management Information System.) This number is assigned by CORES (the Commission Registration System) and can be obtained at https://gullfoss2.fcc.gov/cores/CoresHome.html. For assistance, contact the CORES help desk at (877) 480-3201 or by e-mail at CORES@fcc.gov.

Line 107 -- enter the complete mailing address of the corporate headquarters of the reporting entity.

B. Block 2: Contact Information

Lines 108-111 -- enter the name, telephone number, fax number, and email address of the person who filled out the FCC Form 499-Q. This should be a person who can provide clarifications or additional information, and, if necessary, who could serve as the first point of contact in the event that either the Commission or an administrator should choose to verify or audit information provided in the Telecommunications Reporting Worksheet.

Line 112 -- provide a billing contact person name and address for administrators to send billing information for contributions to the universal service fund. Information on establishing electronic fund transfer and bills for universal service will be sent to this address unless other arrangements are made via written request.

C. Block 3: Contributor Revenue Information

Line 113 – enter the year for which revenue information is being filed.

Line 114 – indicate the calendar quarters for which historical and projected revenue information are being reported.

Lines 115-120 contain detailed revenue data.

1. Separating Telecommunications Revenues from Service Provided to Other Contributors to the Federal Universal Service Support Mechanisms for Resale [Line (115)] from Telecommunications Revenues from Service Provided to End Users [Line (116)] (carrier's carrier vs. end-user)

In the Telecommunications Reporting Worksheet, filers must report revenues using two broad categories: (1) Revenues from other contributors to the federal universal service support mechanisms; and (2) Revenues from all other sources. Taken together, these revenues should include all revenues billed to customers and should include all revenues on the reporting entities' books of account.

[18] *See* 47 U.S.C. § 153(1).

For the purposes of this Worksheet, "Revenues from services provided for resale by other contributors to federal universal service support mechanisms" are revenues from services provided by underlying carriers to other entities that currently are contributors to federal universal service support mechanisms and that are resold in the form of telecommunications. Such revenues are referred to herein as "carrier's carrier revenues" or "revenues from resellers." An underlying carrier also may include as carrier's carrier revenues any switched service revenues received from another U.S. carrier where that carrier is using the underlying carrier's service to refile the foreign-billed traffic of a foreign telephone operator. Revenues from all other sources consist primarily of revenues from services provided to end users, referred to here as "end-user revenues." This latter category includes non-telecommunications revenues.

For the purpose of completing Line (115), a "reseller" is a telecommunications carrier or telecommunications provider that: 1) incorporates purchased telecommunications services into its own telecommunications offerings; and 2) can reasonably be expected to contribute to federal universal service support mechanisms based on revenues from such offerings when provided to end users.

On an interim basis, carriers that provide telecommunications inputs to interconnected VoIP providers should report the resulting revenues as end-user revenues on Line 406. These carriers may not exclude these revenues by invoking the "carrier's carrier" rule.[19]

Each filer should have documented procedures to ensure that it reports as "revenues from resellers" only revenues from entities that reasonably would be expected to contribute to support universal service. The procedures should include, but not be limited to, maintaining the following information on resellers: Filer 499 ID; legal name; address; name of a contact person; and phone number of the contact person. Filers shall provide this information to the Commission or the Administrator upon request. The filer should verify that each reseller will: 1) resell the filer's services in the form of telecommunications; and 2) contribute directly to the federal universal service support mechanisms. If the filer does not have independent reason to know that the reseller satisfies these criteria, it should obtain a signed statement certifying that these criteria are met. Current contributors to universal service are identified at http://gullfoss2.fcc.gov/cib/form499/499a.cfm. Filers will be responsible for any additional universal service assessments that result if its customers must be reclassified as end users.

Note: For the purposes of filling out this Worksheet -- and for calculating contributions to the universal service support mechanisms -- certain telecommunications carriers and service providers may be exempt from contribution to the universal service support mechanisms. These exempt entities, including "international only" and "intrastate only" providers and providers that meet the *de minimis* universal service threshold, should not be treated as resellers for the purpose of reporting revenues on Line 115. That is, filers that are underlying carriers should report revenues derived from the provision of telecommunications to exempt carriers and providers (including services provided to entities that are *de minimis* for universal service purposes) on Line (116). Underlying carriers must contribute to the universal service support mechanisms on the basis of such revenues.

2. Column (a) - total revenues

[19] *See* 2006 *Contribution Methodology Reform Order* at paras. 58-59.

The reporting entity must report gross revenues from all sources, including nonregulated and non-telecommunications services on Lines 115 through 117 and these must add to total gross revenues as reported on Line 118. Gross revenues include account set-up, connection, service restoration, termination and other non-recurring charges. These charges should be reported on the same line that the filer reports any associated recurring revenue. For example, an early termination charge to an end user for an interstate private line service would be reported as interstate revenue on Line 116. Deposits are not revenue. Gross revenues should include revenues derived from the activation and provision of interstate, international, and intrastate telecommunications and non-telecommunications services. Gross revenues consist of total revenues billed to customers during the filing period with no allowances for uncollectibles, settlements, or out-of-period adjustments. Gross revenues do not include amounts that cannot be billed to customers. Gross revenues should include collection overages and unclaimed refunds for telecommunications and telecommunications services when not subject to escheats. Gross billed revenues may be distinct from booked revenues. National Exchange Carrier Association (NECA) pool companies should report the actual gross billed revenues (CABS Revenues) reported to the NECA pool and not settlement revenues received from the pool. Entities making consolidated filings must include in their FCC Form 499 Filings all revenue on the consolidated books of account.

An entity is not required to impute or report revenues for services provided to itself or to wholly owned affiliates unless: 1) it is required to record such revenues for some other federal or state regulatory purpose; or 2) the filer is providing service to an affiliate for resale and the affiliate is not a direct universal service contributor.

Where two contributors have merged prior to the filing date, the successor company should report total revenues for the reporting period for all predecessor operations. The two contributors, however, should continue to report separately if each maintains separate corporate identities and continues to operate.[20] Where an entity obtains, through purchase, merger or transfer, the telecommunications operations or customer base of a telecommunications provider during a quarter, it must report all telecommunications revenues associated with such operations or customer base including revenues billed in the quarter prior to the date of acquisition.

Gross revenues also should include any surcharges on telecommunications services or interconnected VoIP services that are billed to the customer and either retained by the contributor or remitted to a non-government third party under contract. Gross revenues should exclude taxes and any surcharges that are not recorded on the company books as revenues but which instead are remitted to government bodies. Note that any charge included on the customer bill and represented to recover or collect contributions to federal or state universal service support mechanisms must be included in Line (116). Filers should report as intrastate revenues state universal service charges only to the extent that actual payments to state universal service programs were recovered by pass-through charges itemized on customer bills. Other surcharges treated as revenue should be included in the revenue categories on which the surcharges were levied.

For international services, gross revenues consist of gross revenues billed by U.S. contributors with no allowances for settlement payments. International settlement receipts for foreign billed service should not be included in revenues. For common carriers providing international telecommunications services: except in very limited circumstances, the total revenues reported on the FCC Form 499-Q should match the total U.S. billed revenues that will be reported each year pursuant to 47 C.F.R. § 43.61. For example, if a filer receives payment from a foreign carrier for traffic that the filer receives outside of the United States, brings into the United States, and then

[20] *See also* Section II-E, above.

refiles and carries the traffic to a foreign point, the filer would not include those settlement-like payments as revenues on the FCC Form 499-Q even though they might be reported as revenues on the Filer's 43.61 international traffic data report. Note that if the carrier receives the traffic in the United States, then it is providing ordinary international service from the United States to a foreign point and receipts from the originating carrier would be reported as revenue on Line 116 (c).

For international private line services, U.S. providers must report on Line 116 revenues from the U.S. portion of the circuit to the theoretical midpoint of the circuit regardless of whether such revenues were billed to the customer by the filer or by a partner provider in a foreign point. Circuits within the United States that connect a customer to an international circuit should be reported as interstate. Circuits that connect foreign points should be reported on Line 118.

For purposes of completing this Worksheet, prepaid card revenues should be recognized when end-user customers purchase the cards. International revenues may be reported differently on the filer's 43.61 international traffic data reports, where revenues may be based on calls actually placed.

If you have any revenue for Lines (115) and (116), you may not omit the dollar amounts from column (a) even if 100% of the revenue is for interstate or international service.

3. <u>Column (b) and (c) - interstate & international</u>

Columns (b) and (c) are provided to identify the part of gross revenues that arise from interstate and international services for Lines (115) and (116). Intrastate telecommunications means communications or transmission between points within the same State, Territory, or possession of the United States, or the District of Columbia. Interstate and international telecommunications means communications or transmission between a point in one State, Territory, possession of the United States or the District of Columbia and a point outside that State, Territory, possession of the United States or the District of Columbia. Revenues from services offered under interstate tariffs, such as revenues from federal subscriber line charges and from federally tariffed local number portability surcharges, should be identified as interstate revenues. This includes amounts incorporated in or bundled with other local service charges.

For example, if a prepaid calling card provider collects a fixed amount of revenue per minute of traffic, and 65 percent of minutes are interstate, then interstate revenues would include 65 percent of the end-user revenues. Similarly, if a local exchange carrier bills local measured service charges for calls that originate in one state and terminate in another, these billings should be classified as interstate even though the charges are covered by a state tariff and the revenues are included in a local service account. If over ten percent of the traffic carried over a private or WATS line is interstate, then the revenues and costs generated by the entire line are classified as interstate.[21] In general, flat-rated unbundled network access elements should be classified according to the regulatory agency that has primary jurisdiction over the contracts.

<u>Amounts billed to customers to recover federal universal service contribution obligations should be attributed as either interstate or international revenues, as appropriate, on Line 116 but may not be reported as intrastate revenues.</u>

<u>Note:</u> Where possible, filers should report their amount of total revenues that are interstate and international by using information from their books of account and other internal data reporting

[21] *See* 47 C.F.R. § 36.154(a).

systems. Where a filer can determine the precise amount of revenues that it has billed for interstate and international services, it should enter those amounts in columns (b) and (c), respectively.

If interstate and international revenues cannot be determined directly from corporate books of account or subsidiary records, filers provide on the Worksheet good-faith estimates of these figures. Interconnected VoIP and CMRS providers may rely on traffic studies if they are unable to determine their actual interstate and international revenues.[22] Information supporting good-faith estimates must be made available to either the FCC, data collection agent, or to the Administrator upon request. For convenience, calculated interstate and international revenue amounts that are greater than one thousand dollars may be rounded to the nearest thousand dollars. Please enter zero dollars in column (b) or column (c) if, and only if, there were no interstate or international revenues for the line for the reporting period.

Note that the FCC provides the following safe harbor percentages of interstate revenues associated with wireless services normally reported on Line 309 of the FCC Form 499-A and included on Line 115 of the FCC Form 499-Q, and on Lines 409 and 410 of the FCC Form 499-A and included on Lines 116, 119 and 120 of the FCC Form 499-Q:[23]

> 64.9% of interconnected VoIP telecommunications revenues
> 37.1% of cellular and broadband PCS telecommunications revenues
> 12% of paging revenues
> 1% of analog SMR dispatch revenues

These safe harbor percentages may not be applied to universal service pass-through charges, fixed local service revenues, or toll service charges. **All filers must report the actual amount of interstate and international revenues for these services.** For example, toll charges for itemized calls appearing on mobile telephone customer bills should be reported as intrastate, interstate or international based on the origination and termination points of the calls. Thus, for example, if a filer uses the safe harbor percentage for wireless revenues and has separate charges only for international calls, it would report as interstate 37.1% of its cellular wireless revenues on Line 116 column (b) and it would report as international 100% of its revenues associated with international calls on Line 116 column (c). As a result, the total of revenues identified as

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[22] *See 2006 Contribution Methodology Reform Order* at paras. 29-33, 57. *See also Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as Amended; 1998 Biennial Regulatory Review – Review of Customer Premises Equipment and Enhanced Services Unbundling Rules in the Interexchange, Exchange Access and Local Exchange Markets*, CC Docket Nos. 96-61, 98-183, Report and Order, 16 FCC Rcd 7418, 7446-48, paras. 47-51 (2001) (*CPE Bundling Order*).

[23] *See 2006 Contribution Methodology Reform Order* at paras. 25-27, 53-55. *Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans With Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-in-Billing and Billing Format*, Report and Order and Second Further Notice of Proposed Rulemaking, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, FCC 02-329 (rel. Dec. 13, 2002) (*Contribution Methodology Order*); *see also Federal-State Joint Board on Universal Service*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-45, 13 FCC Rcd 21252, 21258-60 (1998).

interstate and international in columns (b) and (c) on FCC Form 499-Q Line 116 would exceed 28.5% of the amount reported in Line 116 column (a).

Wireless telecommunications providers and interconnected VoIP providers that choose to avail themselves of these safe harbor percentages for interstate revenues may assume that the FCC will not find it necessary to review or question the data underlying their reported percentages. All affiliated wireless telecommunications providers and interconnected VoIP providers must make a single election, each quarter, whether to report actual revenues or to use the current safe harbor within the same safe harbor category.[24] So, for example, if in a calendar quarter a wireless telecommunications provider reports actual interstate revenues for its cellular and broadband PCS telecommunications services, all of its affiliated legal entities must also report actual interstate telecommunications revenues for cellular and broadband PCS offerings. The same wireless telecommunications provider and all affiliates, however, could use the safe harbor for paging services. Annual revenues reported on the FCC Form 499-A should reflect the filer's reporting of revenues in each quarter on FCC Form 499-Q.

Many carriers and other providers of telecommunications now offer packages that bundle fixed local exchange service with interstate toll service for a single price. Revenues for the whole bundle, except for tariffed subscriber line and PICC charges, should be reported on Line 404, as described more fully below. The portion of revenues associated with interstate and international toll services must be identified in columns (d) and (e), respectively. Filers should make a good faith estimate of the amounts of interstate and international revenues from bundled local/toll service if they cannot otherwise determine these amounts from corporate records, and must make their methodology available to the Commission or the Administrator, upon request.

Interconnected VoIP and CMRS providers may rely on traffic studies if they are unable to determine their actual interstate and international revenues.[25] In developing their traffic studies, interconnected VoIP and CMRS providers may rely on statistical sampling to estimate the proportion of minutes that are interstate and international. Such sampling techniques must be designed to produce a margin of error of no more than one percent with a confidence level of 95%. If the sampling technique does not employ a completely random sample (e.g., if stratified samples are used), then the respondent must document the sampling technique and explain why it does not result in a biased sample. Traffic studies should include, at a minimum: (1) an explanation of the sampling and estimation methods employed; (2) an explanation as to why the study results in an unbiased estimate with the accuracy specified above; (3) all of the underlying data in machine readable form formatted for EXCEL, ACCESS or SAS; and (4) any documentation necessary to facilitate an audit of the study data. In addition, CMRS providers that rely on traffic studies must submit those studies to the Commission and USAC for review. Interconnected VoIP providers that rely on traffic studies must submit their traffic studies to the Commission for prior approval.[26] Until the Commission has approved an interconnected VoIP provider's proposed traffic study, that provider may use the interim safe harbor.

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[24] *See Federal-State Joint Board on Universal Service*, Order and Order on Reconsideration, CC Docket No. 96-45, FCC 03-20 (rel. Jan. 30, 2003). Note: Wireless telecommunications providers are "affiliated" for purposes of making the single election whether to report actual interstate telecommunications revenues or use the applicable interim wireless safe harbor if one entity (1) directly or indirectly controls or has the power to control another, (2) is directly or indirectly controlled by another, (3) is directly or indirectly controlled by a third party or parties that also controls or has the power to control another, or (4) has an "identity of interest" with another contributor. *See also* 47 C.F.R. § 1.2110(c)(5).

[25] *See 2006 Contribution Methodology Reform Order* at paras. 29-33, 57. *See also CPE Bundling Order* 16 FCC Rcd at 7446-48, paras. 47-51.

[26] *See 2006 Contribution Methodology Reform Order* at para. 57.

4. Explanation of historical revenue categories

Total gross revenue reported on Line 118 should equal the total of the detail amounts reported on Lines 115 through 117.

Line 115 -- Revenues from services provided to other universal service contributors for resale. This line should contain revenues from telecommunications services provided to resellers (*i.e.*, telecommunications revenue derived from other universal service contributors). This category comprises what is commonly-referred to as "carrier's carrier revenues." Filers may wish to consult the instructions for FCC Form 499-A, Lines 303 through 314, when calculating this figure.

Carriers that provide telecommunications inputs to interconnected VoIP providers must report the resulting revenues as end-user revenues and include them in their own contribution bases. These carriers may not exclude these revenues by invoking the "carrier's carrier" rule.[27]

Line 116 -- Universal service contribution base revenues. This line should contain end-user telecommunications revenues (*i.e.*, telecommunications revenues derived from entities that do not contribute directly to universal service), except for revenue from international calls that both originate and terminate in foreign points. Filers should consult the instructions for FCC Form 499-A, Line 420, when calculating this figure.

Line 117 -- Other revenue that should not be reported in the universal service contribution base. This line should contain revenue from international calls that both originate and terminate in foreign points and revenues that are reportable on FCC Form 499-A, Line 418.

Line 117 should include all non-telecommunications service revenues on the reporting entity's books as well as some revenues that are derived from telecommunications-related functions but that should not be included in the universal service or other fund contribution bases. For example, information services offering a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications are not included in the universal service or other fund contribution bases. Information services do not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service. Information services also are called enhanced services because they are offered over transmission facilities used in interstate communications and employ computer processing applications that act on the format, content, code, protocol, or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information. For example, call moderation and call transcription services are information services. These services are exempt from contribution requirements and should be reported on Line 117. Line 117 should include revenues from published directory and carrier billing and collection services. Line 117 should include revenues from the sale, lease, installation, maintenance, or insurance of customer premises equipment (CPE). Line 117 should include inside wiring charges and inside wiring maintenance insurance. Line 117 should include the sale or lease of transmission facilities, such as dark fiber or bare transponder capacity, that are not provided as part of a telecommunications service or as a UNE. Line 117 should include pole attachment revenues. Line 117 should include revenues from providing open video systems (OVS), cable leased access, and direct broadcast satellite (DBS) services. Line 117 should include late payment charges and charges (penalties) imposed by the company for customer

[27] *See 2006 Contribution Methodology Reform Order* at paras. 58-59.

checks returned for non-payment. Line 117 should include revenues from telecommunications services provided in a foreign country where the traffic does not transit the United States or where the carrier is providing service as a foreign carrier, i.e. a carrier licensed in that country.

The Commission adopted two "safe harbor" methods for allocating revenue when telecommunications and CPE/enhanced services are offered as a bundled package.[28] The first option is to report revenues from bundled telecommunications and CPE/enhanced service offerings based on the unbundled service offering prices, with no discount from the bundled offering being allocated to telecommunications. Alternatively, contributors may elect to treat all bundled revenues as telecommunications revenues for purposes of determining their universal service obligations. Filers may choose to use allocation methods other than the two described above. Filers should realize, however, that any other allocation methods may not be considered reasonable, and will be evaluated on a case-by-case basis in an audit or enforcement context.

Line 118 -- Gross billed revenues from all sources. This line should equal the sum of revenues by type of service reported on Lines 115 through 117.

As noted above, for further detail on the types of revenues that should be reported on Lines 115 through 117, filers may wish to consult the Instructions for the FCC Form 499-A, available at the Commission's web site (www.fcc.gov/formpage.html).

5. Projected gross billed end-user interstate and international revenues

The projection quarter is the calendar quarter that starts two months after the filing date and finishes five months after the filing date. Line 119 should contain projected gross-billed end-user interstate and international revenues, including any pass-through charges for federal universal service contributions. These amounts should be the amounts that the filer anticipates reporting on Line 116, column (b) and column (c), in the FCC Form 499-Q filing due six months after the present filing date. In order to estimate these amounts, the filer could review the amounts they are reporting on Line 116 in the instant filing and amounts reported in recent filings. In addition, filers could take into account general business conditions, new contracts covering the projection period, pricing trends, marketing programs, expansion plans, and other relevant information. Filers must develop good faith projections based on company procedures and policies. If the filer anticipates that revenues are as likely to increase as decrease, then it may copy the historic values from Line 116 to use as its projections for Line 119 or it could develop projections by trending historic values from previous quarterly filings. Filers need not make projections for Line 119 column (a).

6. Projected collected end-user interstate and international revenues

Line 120 should show the interstate and international revenues that the filer anticipates collecting from customers during the projection quarter. For this purpose "collected end-user" revenues refers to gross-billed end-user interstate and international telecommunications revenues, including any pass-through charges for federal universal service contributions, less estimated

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[28] *Policies and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, 1998 Biennial Regulatory Review -- Review of Customer Premises Equipment And Enhanced Services Unbundling Rules In the Interexchange, Exchange Access And Local Exchange Markets*, Report and Order, CC Docket No. 96-61, 16 FCC Rcd 7418 (2001).

uncollectibles.[29] We define uncollectibles as the percentage of interstate and international telecommunications revenues that the contributor anticipates will not be collected from end-user customers. This percentage should be calculated in accordance with Generally Accepted Accounting Principles.[30] Thus, uncollectibles should represent the portion of gross billed revenues that the contributor reasonably expects will not be collected. Filers that use the accrual method of accounting should use the percentage of billed revenues that they recognize currently as a reserve for uncollectibles in their books of accounts. Filers that use the cash method of accounting should base this percentage on a comparison of actual collections and billed revenues, with the periods chosen to allow for the average delay between when services are billed and when payments are received. The amounts shown on Line 120 should be the amounts on Line 119 reduced by the percentage of uncollectibles.

Filers will be billed based on the amounts reported on Line 120. Any revisions to these amounts must be filed within 45 calendar days. No adjustments to billings will be made during the quarter to reflect actual levels of billed service and actual collection rates. The Administrator will use the actual revenue data provided by contributors on the FCC Form 499-A to perform annual true-ups to the quarterly projected revenue data submitted by contributors during the prior calendar year.[31] As necessary, the administrator will then refund or collect from contributors any over-payments or under-payments. If the combined quarterly projected revenues reported by a contributor are greater than those reported on its annual revenue report (Form 499-A), then a refund will be provided to the contributor based on an average of the two lowest contribution factors for the year. If the combined quarterly revenues reported by a contributor are less than those reported on its annual revenue report (Form 499-A), then the administrator will collect the difference from the contributor using an average of the two highest contribution factors from that year.

D. Block 4: Certification.

Line 121 -- Filers may use the box in Line 121 to request nondisclosure of the revenue information contained on the Telecommunications Reporting Worksheet. By checking this box, the officer of the company signing the Worksheet certifies that the information contained on the Worksheet is privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the company filing the Worksheet. This box may be checked in lieu of submitting a separate request for confidentiality pursuant to section 0.459 of the Commission's rules.[32] All decisions regarding disclosure of company-specific information will be made by the Commission. The Commission regularly makes publicly available the names (and Block 1 and 2 contact information) of the entities that file the Telecommunications Reporting Worksheet.

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[29] *Federal-State Joint Board on Universal Service*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-45, 13 FCC Rcd 21252, 21258-60 (1998); *Contribution Methodology Order*, para 32.

[30] General Accepted Accounting Principles (GAAP) encompasses the conventions, rules, and procedures necessary to define accepted practice in the preparation of financial statements in the United States. The Financial Accounting Standards Board (FASB) is currently the primary authority to establish GAAP for all companies. Carriers subject to the Uniform System of Accounts would derive this figure from the amount recorded in Account 5301, Uncollectible Revenue - Telecommunications.

[31] *See* Telecommunications Reporting Worksheet, FCC Form 499-A, OMB 3060-0855 (February 2003) (FCC Form 499-A).

[32] 47 C.F.R. § 0.459. *See also Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-55, Report and Order, 13 FCC Rcd 24816 (1998) (listing the showings required in a request that information be withheld and stating that the Commission may defer action on such requests until a formal request for public inspection has been made).

Lines 122 through 126 -- An officer of the reporting entity must examine the data provided in the Telecommunications Reporting Worksheet and certify that the information provided therein is accurate and that projections provided therein represent good faith estimates based on company procedures and policies. An officer is a person who occupies a position specified in the corporate by-laws (or partnership agreement), and would typically be president, vice president for operations, vice president for finance, comptroller, treasurer, or a comparable position. If the reporting entity is a sole proprietorship, the owner must sign the certification. The signature on Line 122 must be in ink.

Reporting entities have the opportunity to enter data, verify, submit and certify FCC Forms 499-A and 499-Q online via a web-based data entry system. Company officers, who have previously filed a signed paper form, may certify subsequent forms online without being required to submit signed paper forms. For those officers, an electronic signature in the signature block of each form certified by that officer will be considered the equivalent to a handwritten signature on the form. By entering his or her electronic signature into the signature block of each form, the officer, therefore, acknowledges that such electronic signature certifies his or her identity and attests under penalty of perjury as to the truth and accuracy of the information contained in each electronically signed form. Visit http://www.universalservice.org/fund-administration/forms for more information and access to the online filing system.

A person who willfully makes false statements on the Worksheet can be punished by fine or imprisonment under title 18 of the United States Code.[33]

Line 127 -- Indicate whether this filing is an original filing or a revised filing.[34]

[33] *See* 18 U.S.C. § 1001.

[34] *See* Section II-E.

IV. Reminders

- Filers are required to maintain records and documentation to justify information reported on the Telecommunications Reporting Worksheet for three years. Filers also must maintain records detailing the methodology used to determine projections reported on the Telecommunications Reporting Worksheet. Upon request, filers may be required to provide such records and documentation to the Commission or to the administrator.

- Is the filer affiliated with another telecommunications provider? Each legal entity must file separately unless they qualify for filing on a consolidated basis. *See* Section II-B. Each affiliate or subsidiary must show the same holding company name on Line 105.

- For information on filing electronically, go to http://forms.universalservice.org.

- Provide data for all lines that apply. Show a zero for services for which the contributor had no revenues for the filing period.

- Contributors to universal service support mechanisms must make five FCC Form 499 filings each year. *See* Figure 2.

- Wherever possible, revenue information should be taken from the contributors' financial records. Filers also must provide projected revenue information on Line 119 through Line 120.

- The Worksheet must be signed by an officer of the reporting entity. An officer is a person who occupies a position specified in the corporate by laws (or partnership agreement), and would typically be president, vice president for operations, comptroller, treasurer, or a comparable position.

- Do not mail the Worksheet to the FCC. *See* Section II-C for filing instructions.

- Note that FCC Form 499 is one of several forms that telecommunications carriers and other providers of interstate telecommunications may need to file. Information concerning common filing requirements for such providers may be found on the FCC web site, at www.fcc.gov/wcb/filing.html.

If you have questions about the Worksheet or the instructions, you may contact:

Form 499 Telecommunications Reporting Worksheet Information	Form499@ universalservice.org (888) 641-8722
Wireline Competition Bureau	
Industry Analysis and Technology Division	(202) 418-0940
TTY	(202) 418-0484

If you have questions regarding contribution amounts, billing procedures or the mechanisms, you may contact:

Universal Service Administrative Company (888) 641-8722

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APPENDIX E

FINAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[224] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Further Notice*.[225] The Commission sought written public comment on the proposals in the *Further Notice*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[226] To the extent that any statement in this FRFA is perceived as creating ambiguity with respect to our rules or statements made in preceding sections of this Order, the rules and statements set forth in those preceding sections shall be controlling.

A. Need for, and Objectives of, the Report and Order

2. In the Report and Order (Order), the Commission makes interim modifications to the existing approach for assessing contributions to the federal universal service fund (USF or Fund) in order to maintain the stability and sufficiency of the Fund in the near-term in response to marketplace changes while we continue to examine more fundamental reform. Under the revised approach, the Commission raises the interim wireless safe harbor from its current 28.5 percent level to 37.1 percent. The Commission also establishes universal service contribution obligations for providers of interconnected voice over Internet Protocol (VoIP) service. As detailed in the Order, interconnected VoIP providers must report and contribute to the USF on all their interstate and international end-user telecommunications revenues. To fulfill this obligation, interconnected VoIP providers have three options: (1) they may use the interim safe harbor of 64.9 percent established in this Order; (2) they may report based on their actual interstate telecommunications revenues; or (3) they may rely on traffic studies. The interim changes made in the Order are essential for securing the viability of universal service – a fundamental goal of communications policy as expressed in the Communications Act – in the near-term.[227]

3. The interim modifications adopted in the Order respond to marketplace developments and minimize the impact of changes to the current system on consumers, service providers, and universal

[224] *See* 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612, has been amended by the Contract with American Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[225] *See Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-in-Billing and Billing Format*, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, Further Notice of Proposed Rulemaking and Report and Order, 17 FCC Rcd 3752, 3808-18, paras. 131-161 (2002) (*Further Notice*); *see also IP-Enabled Services*, WC Docket No. 04-36, Notice of Proposed Rulemaking, 19 FCC Rcd 4863, 4905-08, paras 63-66 (2004) (*IP-Enabled Services Notice*).

[226] *See* 5 U.S.C. § 604.

[227] *See* 47 U.S.C. § 151 ("One of Congress's primary purposes in establishing the Federal Communications Commission was to "make available . . . to all the people of the United States . . . a rapid, efficient, Nation-wide. . .communications service with adequate facilities at reasonable charges."). The Communications Act of 1934, as amended (the Act or the Communications Act), is codified at 47 U.S.C. §§ 151, *et seq.*

service administration, while we continue to work towards more fundamental reform. Specifically, the revised approach to USF contributions will ensure that all interstate telecommunications carriers and providers of telecommunications contribute, on an equitable, competitively neutral, and nondiscriminatory basis, to our mechanism for preserving and advancing universal service. For example, applying universal service obligations to providers of interconnected VoIP service is consistent with the principle of competitive neutrality. In the *Universal Service First Report and Order*, the Commission established competitive neutrality as a principle to guide the development of universal service policies.[228] Competitive neutrality means that "universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another."[229] The Commission has recognized that interconnected VoIP service is increasingly seen by consumers as a potential substitute for traditional telephone service.[230] As interconnected VoIP service continues to grow, and to attract subscribers who previously relied on traditional telephone service, it becomes increasingly inappropriate to exclude interconnected VoIP service providers from universal service contribution obligations.[231]

4. The interim modifications will provide near-term stability and sustainability for the Fund by responding to the fundamental changes in the telecommunications market while retaining the essential elements of the current approach to USF contributions. They also ensure that telecommunications carriers and providers of telecommunications contribute on an equitable, competitively neutral, and nondiscriminatory basis, to our mechanism for preserving and advancing universal service. For these reasons, the Order revises the existing approach for assessing contributions to the Fund.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

5. On June 15, 2006, the Office of Advocacy of the U.S. Small Business Administration (SBA) filed an *ex parte* letter with the Commission.[232] In its letter, the SBA challenges the sufficiency of the Commission's IRFA released with the notice of proposed rulemaking in the *IP-Enabled Services* proceeding.[233] The SBA states that the item itself "did not propose specific regulations and the IRFA released with the proposal reflected this lack of specificity."[234] The SBA states that the *IP-Enabled Services* IRFA "makes no conclusions regarding which regulations, if any, would apply to any entity, including small entities."[235] This analysis leads SBA to conclude that the Commission has not analyzed

[228] *Universal Service First Report and Order*, 12 FCC Rcd at 8801-03, paras. 46-52.

[229] *Universal Service First Report and Order*, 12 FCC Rcd at 8801, para. 47.

[230] *See, e.g., SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, WC Docket No. 05-65, Memorandum Opinion and Order, 20 FCC Rcd 18290, 18337-40, paras. 86-88 (*SBC/AT&T Merger Order*) (determining, in the context of a merger analysis, that facilities-based VoIP is appropriately considered part of the mass market local service product market); *id.* at 18349, para. 104 (noting that facilities-based VoIP providers "are likely to capture an increasing share of mass market local and long distance services"); *VoIP CALEA Order*, 20 FCC Rcd at 15009-10, para. 42 (noting that interconnected VoIP service "is increasingly used to replace analog voice service").

[231] *See SBC/AT&T Merger Order*, 20 FCC Rcd at 18337, para. 85; *cf. Universal Service First Report and Order*, 12 FCC Rcd at 9184-85, para. 797 (finding that payphone aggregators should be required to contribute to universal service support mechanisms "because they directly compete with mandatory contributors to universal service").

[232] *See* Letter from Thomas M. Sullivan, Chief Counsel for Advocacy, and Eric E. Menge, Assistant Chief Counsel for Telecommunications, U.S. Small Business Administration to Chairman Kevin J. Martin, FCC, CC Docket No. 96-45, WC Docket No. 04-36 (filed June 15, 2006).

[233] *Id.* at 2 (citing *IP-Enabled Services*, WC Docket No. 04-36, *Notice of Proposed Rulemaking*, 19 FCC Rcd 4863 (2005)).

[234] *Id.*

[235] *Id.*

the economic impact of the actions taken in the Order on small businesses, and to recommend that the Commission defer action and complete an IRFA that it believes would meet the requirements of the RFA.[236]

6. We disagree with SBA that the Commission should postpone taking action in this proceeding to change the safe harbor percentage for wireless carriers and to impose universal service obligations on interconnected VoIP providers, and instead issue a supplemental IRFA identifying and analyzing the economic impacts on small entities and less burdensome alternatives.[237] We believe the additional steps suggested by SBA are unnecessary because small entities already have received sufficient notice of the issues addressed in today's Order and because the Commission has considered the economic impact on small entities and what ways are feasible to minimize the burdens imposed on those entities, and, to the extent feasible, has implemented less burdensome alternatives.[238] Moreover, SBA's proposal to postpone and thus further delay these interim actions is antithetical to the core purpose of the Order, which is to ensure the near-term stability and sufficiency of the USF.

7. The Commission also received some general small business-related comments. Some commenters, for example, asserted that a connection-based methodology would be inequitable and burdensome for small businesses, particularly with respect to assessment of multi-line business connections based on the proposed tiers of capacity outlined in the *Further Notice*. Other commenters maintained that a *de minimis* exemption was essential to any contribution system adopted by the Commission. To the extent that these commenters' concerns are implicated by today's actions, they are discussed throughout the Order.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

8. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein.[239] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[240] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities.[241] Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).[242]

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[236] *Id.*

[237] *Id.*

[238] For example, the Commission has extended the *de minimis* exception to interconnected VoIP providers and has provided interconnected VoIP providers that are required to contribute three means of determining their contributions. Such flexibility will allow an entity to determine which method is least administratively burdensome for it. *See* Order, *supra*, at paras. 51-57, 61.

[239] 5 U.S.C. § 604(a)(3).

[240] 5 U.S.C. § 601(6).

[241] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition in the Federal Register."

[242] 15 U.S.C. § 632.

9. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, including the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Trends in Telephone Service* report.[243] According to data in the most recent report, there are 5,679 interstate carriers. These carriers include, *inter alia*, incumbent local exchange carriers, competitive local exchange carriers, competitive access providers, interexchange carriers, other wireline carriers and service providers (including shared-tenant service providers and private carriers), operator service providers, pay telephone operators, providers of telephone toll service, wireless carriers and services providers, and resellers.

10. Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data.[244] A "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[245] Nationwide, as of 2002, there were approximately 1.6 million small organizations.[246] The term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."[247] Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.[248] We estimate that, of this total, 84,377 entities were "small governmental jurisdictions."[249] Thus, we estimate that most governmental jurisdictions are small.

11. We have perhaps been overbroad in our list of entities directly affected, below, in an effort to encourage comment.

1. Wireline Carriers and Service Providers

12. We have included small incumbent local exchange carriers in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."[250] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not "national" in scope.[251] We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

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[243] FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, Trends in Telephone Service (June 2005) (*Trends in Telephone Report*). This source uses data that are current as of October 1, 2004.

[244] *See* SBA, Programs and Services, SBA Pamphlet No. CO-0028, at page 40 (July 2002).

[245] 5 U.S.C. § 601(4).

[246] Independent Sector, The New Nonprofit Almanac & Desk Reference (2002).

[247] 5 U.S.C. § 601(5).

[248] U.S. Census Bureau, Statistical Abstract of the United States: 2006, Section 8, page 272, Table 415.

[249] We assume that the villages, school districts, and special districts are small, and total 48,558. *See* U.S. Census Bureau, Statistical Abstract of the United States: 2006, section 8, page 273, Table 417. For 2002, Census Bureau data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

[250] 15 U.S.C. § 632.

[251] *See* Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to Chairman William E. Kennard, Federal Communications Commission (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." *See* 15 U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. § 121.102(b).

13. *Incumbent Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[252] According to Commission data,[253] 1,303 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,303 carriers, an estimated 1,020 have 1,500 or fewer employees and 283 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our action.

14. *Competitive Local Exchange Carriers (CLECs), Competitive Access Providers (CAPs), "Shared-Tenant Service Providers," and "Other Local Service Providers."* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[254] According to Commission data,[255] 769 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 769 carriers, an estimated 676 have 1,500 or fewer employees and 93 have more than 1,500 employees. In addition, 12 carriers have reported that they are "Shared-Tenant Service Providers," and all 12 are estimated to have 1,500 or fewer employees. In addition, 37 carriers have reported that they are "Other Local Service Providers." Of the 39, an estimated 38 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities that may be affected by our action.

15. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[256] According to Commission data,[257] 143 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 141 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by our action.

16. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[258] According to Commission data,[259] 770 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 747 have 1,500 or fewer employees and 23 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our action.

17. *Payphone Service Providers (PSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard

[252] 13 C.F.R. § 121.201, NAICS code 517110.

[253] "Trends in Telephone Service" at Table 5.3.

[254] 13 C.F.R. § 121.201, NAICS code 517110.

[255] "Trends in Telephone Service" at Table 5.3.

[256] 13 C.F.R. § 121.201, NAICS code 517310.

[257] "Trends in Telephone Service" at Table 5.3.

[258] 13 C.F.R. § 121.201, NAICS code 517310.

[259] "Trends in Telephone Service" at Table 5.3.

under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[260] According to Commission data,[261] 654 carriers have reported that they are engaged in the provision of payphone services. Of these, an estimated 652 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of payphone service providers are small entities that may be affected by our action.

18. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[262] According to Commission data,[263] 316 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 292 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by our action.

19. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[264] According to Commission data,[265] 23 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 20 have 1,500 or fewer employees and three have more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by our action.

20. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[266] According to Commission data,[267] 89 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, an estimated 88 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by our action.

21. *800 and 800-Like Service Subscribers.*[268] Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-like service ("toll free") subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[269] The most reliable source of information regarding the number of these service subscribers appears to be data

[260] 13 C.F.R. § 121.201, NAICS code 517110.

[261] "Trends in Telephone Service" at Table 5.3.

[262] 13 C.F.R. § 121.201, NAICS code 517110.

[263] "Trends in Telephone Service" at Table 5.3.

[264] 13 C.F.R. § 121.201, NAICS code 517110.

[265] "Trends in Telephone Service" at Table 5.3.

[266] 13 C.F.R. § 121.201, NAICS code 517310.

[267] "Trends in Telephone Service" at Table 5.3.

[268] We include all toll-free number subscribers in this category, including those for 888 numbers.

[269] 13 C.F.R. § 121.201, NAICS code 517310.

the Commission collects on the 800, 888, and 877 numbers in use.[270] According to our data, at the beginning of January 2005, the number of 800 numbers assigned was 7,540,453; the number of 888 numbers assigned was 5,947,789 and the number of 877 numbers assigned was 4,805,568. We do not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small businesses under the SBA size standard. Consequently, we estimate that there are 7,540,453 or fewer small entity 800 subscribers; 5,947,789 or fewer small entity 888 subscribers; and 4,805,568 or fewer small entity 877 subscribers.

2. International Service Providers

22. *Satellite Telecommunications and Other Telecommunications.* There is no small business size standard developed specifically for providers of international service. The appropriate size standards under SBA rules are for the two broad census categories of "Satellite Telecommunications" and "Other Telecommunications." Under both categories, such a business is small if it has $13.5 million or less in average annual receipts.[271]

23. The first category of Satellite Telecommunications "comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications."[272] For this category, Census Bureau data for 2002 show that there were a total of 371 firms that operated for the entire year.[273] Of this total, 307 firms had annual receipts of under $10 million, and 26 firms had receipts of $10 million to $24,999,999.[274] Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

24. The second category of Other Telecommunications "comprises establishments primarily engaged in (1) providing specialized telecommunications applications, such as satellite tracking, communications telemetry, and radar station operations; or (2) providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems."[275] For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year.[276] Of this total, 259 firms had annual receipts of under $10 million and 15 firms had annual receipts of $10 million to $24,999,999.[277] Consequently, we estimate that the majority of Other Telecommunications firms are small entities that might be affected by our action.

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[270] "Trends in Telephone Service" at Tables 18.4, 18.5, 18.6.

[271] 13 C.F.R. § 121.201 , NAICS codes 517410 and 517910.

[272] U.S. Census Bureau, 2002 NAICS Definitions, "517410 Satellite Telecommunications"; http://www.census.gov/epcd/naics02/def/NDEF517.HTM.

[273] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 517410 (issued Nov. 2005).

[274] *Id.* An additional 38 firms had annual receipts of $25 million or more.

[275] U.S. Census Bureau, 2002 NAICS Definitions, "517910 Other Telecommunications"; http://www.census.gov/epcd/naics02/def/NDEF517.HTM.

[276] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 517910 (issued Nov. 2005).

[277] *Id.* An additional 14 firms had annual receipts of $25 million or more.

3. Wireless Telecommunications Service Providers

25. Below, for those services subject to auctions, we note that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

26. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of "Paging"[278] and "Cellular and Other Wireless Telecommunications."[279] Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year.[280] Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.[281] Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year.[282] Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.[283] Thus, under this second category and size standard, the majority of firms can, again, be considered small.

27. *Cellular Licensees.* The SBA has developed a small business size standard for wireless firms within the broad economic census category "Cellular and Other Wireless Telecommunications."[284] Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. According to Commission data, 437carriers reported that they were engaged in the provision of cellular service, Personal Communications Service (PCS), or Specialized Mobile Radio (SMR) Telephony services, which are placed together in the data.[285] We have estimated that 260 of these are small, under the SBA small business size standard.[286] Thus, under this category and size standard, the majority of firms can be considered small. This information is also included in paragraph 28.

28. *Common Carrier Paging.* The SBA has developed a small business size standard for Paging, under which a business is small if it has 1,500 or fewer employees.[287] According to Commission data,[288]

[278] 13 C.F.R. § 121.201, NAICS code 517211.

[279] 13 C.F.R. § 121.201, NAICS code 517212.

[280] U.S. Census Bureau, 2002 Economic Census, Subject Series: "Information," Table 5, Employment Size of Firms for the United States: 2002, NAICS code 517211 (issued Nov. 2005).

[281] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with "1000 employees or more."

[282] U.S. Census Bureau, 2002 Economic Census, Subject Series: "Information," Table 5, Employment Size of Firms for the United States: 2002, NAICS code 517212 (issued Nov. 2005).

[283] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with "1000 employees or more."

[284] 13 C.F.R. § 121.201, NAICS code 517212.

[285] "Trends in Telephone Service" at Table 5.3.

[286] *Id.*

[287] 13 C.F.R. § 121.201, NAICS code 517211.

[288] "Trends in Telephone Service" at Table 5.3.

375 carriers have reported that they are engaged in Paging or Messaging Service. Of these, an estimated 370 have 1,500 or fewer employees, and 5 have more than 1,500 employees. Consequently, the Commission estimates that the majority of paging providers are small entities that may be affected by our action. In addition, in the Paging *Third Report and Order*, we developed a small business size standard for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.[289] A "small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a "very small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years.[290] The SBA has approved these small business size standards.[291] An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000.[292] Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won.

29. *Wireless Communications Services*. This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services (WCS) auction. A "small business" is an entity with average gross revenues of $40 million for each of the three preceding years, and a "very small business" is an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these small business size standards.[293] The Commission auctioned geographic area licenses in the WCS service. In the auction, held in April 1997, there were seven winning bidders that qualified as "very small business" entities, and one that qualified as a "small business" entity.

30. *Wireless Telephony*. Wireless telephony includes cellular, personal communications services (PCS), and specialized mobile radio (SMR) telephony carriers. As noted earlier, the SBA has developed a small business size standard for "Cellular and Other Wireless Telecommunications" services.[294] Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees.[295] According to Commission data, 437 carriers reported that they were engaged in the provision of wireless telephony.[296] We have estimated that 260 of these are small under the SBA small business size standard.

31. *Broadband Personal Communications Service*. The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of $40 million or less in the three previous calendar years.[297] For Block

[289] Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, PR Docket No. 89-552, Third Report and Order and Fifth Notice of Proposed Rulemaking, 12 FCC Rcd 10943, 11068-70, paras. 291-295, 62 FR 16004 (Apr. 3, 1997).

[290] *See* Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC, from A. Alvarez, Administrator, SBA (Dec. 2, 1998) (SBA Dec. 2, 1998 letter).

[291] *Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems*, Memorandum Opinion and Order on Reconsideration and Third Report and Order, 14 FCC Rcd 10030, paras. 98-107 (1999).

[292] *Id.* at 10085, para. 98.

[293] SBA Dec. 2, 1998 letter.

[294] 13 C.F.R. § 121.201, NAICS code 517212.

[295] *Id.*

[296] "Trends in Telephone Service" at Table 5.3.

[297] *See* Amendment of Parts 20 and 24 of the Commission's Rules – Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, WT Docket No. 96-59, Report and Order, 11 FCC Rcd 7824, 61 FR 33859 (July 1, 1996) (PCS Order); *see also* 47 C.F.R. § 24.720(b).

F, an additional classification for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years."[298] These standards defining "small entity" in the context of broadband PCS auctions have been approved by the SBA.[299] No small businesses, within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F.[300] On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses. There were 48 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as "small" or "very small" businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

32. *Narrowband Personal Communications Services.* To date, two auctions of narrowband personal communications services (PCS) licenses have been conducted. For purposes of the two auctions that have already been held, "small businesses" were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order.*[301] A "small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A "very small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards.[302] In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas (MTAs) and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined. The Commission assumes, for purposes of this analysis, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

33. *220 MHz Radio Service – Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a small business size standard for small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the

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298 *See PCS Order*, 11 FCC Rcd 7824.

299 *See, e.g., Implementation of Section 309(j) of the Communications Act – Competitive Bidding*, PP Docket No. 93-253, Fifth Report and Order, 9 FCC Rcd 5332, 59 FR 37566 (July 22, 1994).

300 FCC News, Broadband PCS, D, E and F Block Auction Closes, No. 71744 (rel. Jan. 14, 1997); see also Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, WT Docket No. 97-82, Second Report and Order, 12 FCC Rcd 16436, 62 FR 55348 (Oct. 24, 1997).

301 *Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS*, Docket No. ET 92-100, Docket No. PP 93-253, Second Report and Order and Second Further Notice of Proposed Rulemaking, 15 FCC Rcd 10456, 65 FR 35875 (June 6, 2000).

302 *See* SBA Dec. 2, 1998 letter.